

# **UNAPPROVED**

## **BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

### **MINUTES OF TASK FORCE ON THE INSPECTION PROCESS**

Tuesday, October 16, 2007  
9960 Mayland Drive, Suite 300  
Richmond, Virginia 23233-1463  
Conference Room 4

Department of Health Professions

#### **CALLED TO ORDER**

Mr. Blair Nelsen, F.S.L. Chair, called the quarterly meeting of the Task Force on the Inspection Process to order at 9:10 a.m., on Tuesday, October 16, 2007 in Conference Room #4, at 9960 Mayland Drive, Richmond, Virginia.

#### **PRESIDING**

Blair Nelsen, F.S.L.

#### **MEMBERS PRESENT**

Willard D. Tharp, F.S.L.  
Randolph T. Minter, F.S.L.  
Billie Watson Hughes, F.S.L.

#### **MEMBERS ABSENT**

Rev. Yvonne Jones-Bibbs

#### **OTHER BOARD MEMBERS PRESENT**

Walter S. Ball, Citizen  
Robert B. Burger, Jr., F.S.L.  
Michael J. Leonard, F.S.L.  
Barry Murphy, F.S.L.

#### **STAFF PRESENT**

Elizabeth Young, Executive Director  
Jeanette Meade, Administrative Staff Assistant  
Pam Horner, Administrative Staff Assistant

## **COUNSEL PRESENT**

Jack E. Kotvas, Assistant Attorney General

## **GUESTS**

Samuel Johnson, Enforcement Division  
Marta J. Ishmael, Enforcement Division  
Keith Dressler, Enforcement Division  
Jennifer Challis, Enforcement Division  
Lynne Helmick, Enforcement Division  
Leith Ellis, Enforcement Division  
Loretta Hopson-Bush, Compliance Division  
Ann Tiller, Compliance Division  
Meredyth Partridge, Regulatory Support Services, Inc.  
Rusty Spencer, Assurant Pre-Need

## **QUORUM**

With four members of the Committee present, a quorum was established.

## **INTRODUCTIONS**

There were brief introductions of the Board, DHP staff and visitors.

## **ORDERING OF THE AGENDA**

The agenda was ordered as written.

## **PUBLIC COMMENT**

There was no public comment.

## **REVIEW OF PREVIOUS MEETINGS**

There was a review of the minutes from the October 10, 2006 Task Force Meeting on the Inspection Process.

## **REVIEW OF CURRENT INSPECTION REPORT**

There was a brief review of the inspection report currently used. Due to changes in the regulations Ms. Young and Ms. Yeatts stated that a revision of the inspection report was necessary.

## **BRIEF BACKGROUND**

Ms. Young thanked everyone in attendance for coming out to discuss the inspection process and for bringing issues of concerns from the Board members, the inspectors, compliance and other entities. She stated that she welcomed the opportunity to be able to dialogue with everyone regarding the inspection process.

## **CHANGES IN LAW AND REGULATIONS**

### **Future Changes in Law**

Ms. Young stated that the regulations are changing again, but since they are not finalized they would not affect today's meeting. Ms. Young stated that if major changes are made; she will notify every one of such changes.

## **REVIEW OF GUIDANCE DOCUMENT**

**§18VAC 65-20-50(B) – Posting of license.** The establishment license shall be posted in a place conspicuous to the public, such as the lobby, main hallway or lounge.

Ms. Ishmael stated again that she has found that licensees continue to post licenses in areas that are not used by the public. She suggested that the Board may consider requiring placing licenses in places more conspicuous to the public. Mr. Dressler stated that in some establishments, the only place to post a license is in the arrangement room. The Board agreed to leave "conspicuous to the public" in the regulations.

Ms. Young stated that the issue of not posting a contract embalmer's license was cited in an inspection that Ms. Helmick conducted. Mr. Minter stated that he has a person who comes into his establishment and performs embalmings once or twice a year. Mr. Kotvas stated that when you engage a person to embalm, they should still adhere to the regulations that are in place and post the licenses of the contract embalmers. Ms. Young stated that there have been many instances occurring regarding unlicensed activity. She stated that the main concern was whether everyone had a clear understanding of what the board requires as far as posting of licenses. Ms. Young stated that the responsibility of posting of the licenses was that of the funeral establishment manager. She stated that if further questions arose, contact the board for clarification.

#### **§18VAC65-20-540(A) Preparation room requirements.**

The regulations require that any operating funeral home must have a prep room in at least one of its establishments. Ms. Young stated that if there are prep rooms in more than one establishment and one is not in use, it still must be inspected. Also, Ms. Young said that if an application was received for a new funeral establishment, they must have a prep room.

#### **§18VAC65-20-570(B) – Condition of preparation room.**

This regulation has changed. Ms. Young will rewrite it.

#### **§18VAC65-20-580(A) (1) – Preparation room equipment.**

A ventilation system which operates and is appropriate to the size and function of the room.

Ms. Ishmael stated she found it difficult in determining whether or not the ventilation system was working. She stated she would hold a sheet of a paper in front of the system and if the paper was drawn in, she would deem it operational. Mr. Dressler agreed and stated that he would cite a deficiency as ventilation system inadequate. Mr. Tharp stated that the paper test was probably the most practical way to determine whether the ventilation system was operational. Ms. Partridge stated that OSHA tests ventilation systems and issues the establishment's certificates to post in their prep rooms if systems are deemed operational and adequate.

#### **§18VAC65-20-580(A) (2) – Preparation room equipment.**

Running hot and cold water.

Mr. Dressler stated during inspections, he has seen a few faucets with only dripping hot water. He stated the managers would normally respond by saying there were plumbing problems.

#### **§18VAC65-20-590 Disposal of waste materials.**

Disposal of all waste materials shall be in conformity with local, state, and federal law to avoid contagion and the possible spread of disease.

Ms. Partridge stated that facilities may transport waste materials to hospitals for disposal; however, there must be a limit of only three bags. Mr. Tharp stated that if this method is used, the establishment must have a current letter in their files stating that there is a contract with the hospital and it should be renewed annually.

## **Regulatory Review**

It was decided to review definitions of main establishment and branch establishment. Also the Board had a discussion on preneed regulations. Mr. Dressler asked about quarterly statements with preneed. It was determined that quarterly statements need to be verified and required to remain on premises for three years from the last date of receipt. Also the Board needs to review the receipt from that company; per verification of funding source.

There should be evidence of funding in the preneed file with a copy of the check and the policy in the file. Also a copy of the check that the funeral homes send to the funding company.

The question was asked can a burial plot be considered a cash advance and the answer is no it cannot.

Mr. Tharp made a motion that the Board submit a NOIRA for preneed regulations; to recommend to the full Board. The motion was properly seconded by Ms. Hughes. It was carried unanimously.

## **2009 Legislation**

The Board discussed inspectors not being allowed to complete the inspections on day of arrival and sometimes not allowed to conduct inspections on the second or third trip to the funeral home. The Board discussed issuing a search warrant or a Cease and Desist Order. The Board needs to strengthen Section 54.1-2506.2 of the Code in order to make changes.

Ms. Young stated she would get with Ms. Wingfield, Deputy Director of DHP regarding sending a certified letter to licensees who refuse to allow inspections.

## **AJOURNMENT**

With no further business, the meeting was adjourned at 12:00 noon.

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Blair Nelsen, Chair

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Elizabeth Young, Executive Director

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Date

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Date